This case to be heard in Rhinelander at the Oneida County Courthouse.

WISCONSIN SUPREME COURT CALENDAR
Oral Argument: April 12, 2001, 9:30 a.m.

Case Number: 98-2595-CR State v. Rayshun D. Eason

This is a review of a decision from the Wisconsin Court of Appeals, District IV (headquartered in Madison), that affirmed an order of the Rock County Circuit Court, Judge Edwin C. Dahlberg presiding.

In this case, the Wisconsin Supreme Court will decide whether evidence that police seized in a drug raid was properly thrown out because of problems with the search warrant. The Court is also expected to determine whether Wisconsin will recognize an exception to the rule that requires exclusion of evidence that has been gathered illegally[1].

Here is the background: In April 1998, City of Beloit police applied for a no-knock search warrant[2] for an apartment in the city. The affidavit[3] they submitted alleged that within the previous 72 hours, a tipster had bought cocaine from one of the apartment residents, Clinton Bentley. The affidavit also said that the utility bills for the apartment were in the name of Shannon Eason, and described the criminal histories of Bentley and Eason as follows:

> Bentley was arrested by the Belvidere, Illinois Police Department in 1989 for aggravated assault … Eason has been arrested for such things as larceny (nine times), obstructing (three times), and assault (twice).

The officer also said he had been involved in about 70 drug raids and that based upon his "… training, experience and association with others in those fields, he is aware that persons involved in many illegal activities, including drug related crimes, often arm themselves with weapons, including firearms and sometimes use those weapons against the police and others." The no-knock search warrant was issued.

At about noon on May 1, 1998, police executed the warrant, breaking down the door to an apartment where Bentley, Shannon Eason, and others lived. When they entered the apartment, police found Bentley, Shannon Eason, and the defendant, Rayshun Eason, as well as two small

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[1] The U.S. Supreme Court developed the good faith exception to the exclusionary rule in the 1984 case U.S. v. Leon (468 U.S. 897). The exception says that evidence may be allowed in cases where officers acted in reasonable reliance on a search warrant that was issued by a neutral magistrate even if that warrant is later found to be invalid.

[2] In State v. Stevens, 181 Wis. 2d 410, 511 N.W.2d 591 (1994), the Wisconsin Supreme Court adopted a blanket exception to the rule that police must knock and announce themselves before executing a search warrant. The exception covers cases involving a search warrant for felonious drug delivery. The Court found that an extremely high risk of serious injury to the police as well as the potential for the disposal of drugs by the occupants prior to entry by the police exists in all cases involving felonious drug delivery. The Court dealt with this issue again, reaffirming the drug house exception, in State v. Richards, 201 Wis.2d 845, 549 N.W.2d 218 (1996).

[3] A written statement of facts confirmed by the oath of the party making it, before a notary or officer having authority to administer oaths. In criminal cases, affidavits are often used by police officers seeking to convince courts to grant a warrant to make an arrest or a search.

children, a visitor from Rockford, Ill., and two women. The officers saw Bentley throw a baggie containing crack cocaine behind a bookcase and saw Shannon and Rayshun Eason run to the back of the apartment. They found rocks of cocaine along the path the Easons took.

Rayshun Eason was eventually charged with possession of cocaine with intent to deliver. He moved to suppress the evidence, arguing that it had been seized in violation of his Fourth Amendment[4] rights. Specifically, he argued that the warrant's no-knock authorization was not justified because the affidavit for the warrant failed to establish a reasonable suspicion that knocking and announcing their presence before entering would endanger the officers. The trial court agreed, and excluded the evidence.

Specifically, the trial court found (and the Court of Appeals affirmed) that a search warrant affidavit detailing the residents' *arrests* rather than *convictions* was not enough to justify a no-knock warrant. Both courts rejected the State's argument that the good faith exception should be applied in this case to make the evidence admissible. They found that this exception could not be applied because the Wisconsin Supreme Court has not approved it.

The Supreme Court will clarify whether a suspect's arrest record can be sufficient to establish the need for a no-knock search warrant, and determine the level of danger the police must be potentially facing to establish the "reasonable suspicion" necessary for issuing such a warrant. The Court will also determine whether Wisconsin will apply the good faith exception to the exclusionary rule adopted by the U.S. Supreme Court.

[4] "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.